

STARN • O'TOOLE • MARCUS & FISHER

A LAW CORPORATION

July 22, 2024

VIA EMAIL

Magistrate Judge Kenneth J. Mansfield
U.S. District Court, District of Hawaii
300 Ala Moana Blvd, C-338
Honolulu, HI, 96850
mansfield_orders@hid.uscourts.gov

Re: *County of Maui, Department of Environmental Management v. Komar Maui Properties I LLC*, Case No. 1:24-cv-00203-KJM
July 25, 2024 Status Conference at 9:30 am

Dear Judge Mansfield:

Pursuant to the Court's EO [Dkt. 32], Defendant Komar Maui Properties I LLC ("***Komar***") submits this letter indicating the substance anticipated to be discussed at the July 25, 2024 Status Conference with the Court.

The status conference was requested by the County, to which Komar's counsel indicated it had no objection, understanding it was to address how to move forward. The County's request for the status conference states, "The County wants to update the Court about the parties' efforts to mediate the matter and to discuss the County's request to expedite the eminent domain proceedings." Komar had no further information on what the County is contemplating regarding proceeding until receiving the County's letter this afternoon. Per the Court's July 15, 2024 Order Denying Plaintiff's Motion for an Order of Possession [Dkt. 30], Federal Rule of Civil Procedure ("FRCP") Rule 71.1 governs eminent domain proceedings in this Court.

Regarding mediation, prior to requesting the status conference, counsel for the County contacted me regarding potential settlement and mediation. The parties previously exchanged communications regarding early mediation, and a meeting between Komar and Mayor Bissen had been scheduled but has now twice been cancelled by the Mayor at the last minute. Most recently, a meeting scheduled for Friday, July 12 was postponed "indefinitely," after four Komar representatives flew in from across the country to attend the meeting. At this point, we are concerned that mediation or settlement efforts be genuine.

The Honorable Kenneth J. Mansfield

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Komar's answer to the County's complaint raises a number of defenses and challenges to the County's right to take, including on the basis of failure to comply with environmental review requirements and bad faith. Further discovery, including written discovery, depositions, third-party discovery, and potentially, experts, are needed before Komar's defenses and right to take challenges can be fairly adjudicated.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sharon V. Lovejoy", written in a cursive style.

Sharon V. Lovejoy

cc: Thomas W. Kolbe, Esq. (via email)

Mariana Löwy-Gerstmar, Esq. (via email)